

**BOULT  
CUMMINGS  
CONNERS  
& BERRY**

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REGULATORY AUTH.

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June 22, 1999 EXECUTIVE SECRETARY

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Henry Walker  
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David Waddell  
Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243

Re: Proceeding for the Purpose of Addressing Competitive Effects of Contract  
Service Arrangements Filed by BellSouth Telecommunications, Inc. in  
Tennessee  
Docket No. 98-00559

Dear David:

Enclosed for filing are the supplemental responses of NEXTLINK Tennessee, Inc.  
to discovery filed by BellSouth Telecommunications, Inc. in the above-captioned proceeding.

These answers are filed in response to the hearing officer's orders of March 24 and  
June 1, 1999, directing NEXTLINK to provide answers to BellSouth's questions which  
NEXTLINK did not answer earlier.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:

  
Henry Walker

HW/nl  
Attachment  
c: All parties

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**IN RE:        Proceeding for the Purpose of Addressing Competitive Effects of Contract Service Arrangements Filed by BellSouth Telecommunications, Inc. in Tennessee**

**Docket No. 98-00559**

**RESPONSE OF NEXTLINK TENNESSEE, INC. TO BELL SOUTH TELECOMMUNICATIONS, INC.'S FIRST DATA REQUESTS**

NEXTLINK Tennessee, Inc. ("NEXTLINK") submits the following responses to BellSouth Telecommunications, Inc.'s ("BellSouth") first data requests dated September 16, 1998.

Identify each person participating in the preparation of the answers to these data requests or supplying information used in connection therewith, and explain with particularity each person's relationship, if any, to NEXTLINK.

**RESPONSE:** Henry Walker and Dana Shaffer, attorneys for NEXTLINK.

Do you contend that any BellSouth Contract Service Arrangement is anticompetitive?

**RESPONSE:** Yes.

If the answer to the foregoing request is in the affirmative, for each CSA which you contend is anticompetitive, please:

- (a) identify the CSA by applicable CSA, tariff, or docket number;
- (b) identify the terms, conditions, or provisions of the CSA which you contend are anticompetitive, if any;

(c) state all facts which support your contention that the CSA or any terms, conditions, or provisions contained therein are anticompetitive; and

(d) identify all documents which support your conclusion that the CSA or any terms, conditions, or provisions contained therein are anticompetitive.

**RESPONSE:** NEXTLINK's contention at this time is that the following BellSouth CSAs are anticompetitive:

(a) all Volume and Term Agreements;

(b) any special service arrangement that is priced below cost;

(c) any special service arrangement which is offered at less than the tariffed rate unless BellSouth can demonstrate that the rate is necessary to meet a bona fide offer from a competing carrier;

(d) any CSA containing termination penalties which allow BellSouth to recover installation costs not actually incurred by BellSouth.

Do you contend that any BellSouth Contract Service Arrangement is discriminatory?

**RESPONSE:** NEXTLINK has insufficient information to determine whether any BellSouth CSA is discriminatory.

If the answer to the foregoing request is in the affirmative, for each CSA which you contend is discriminatory, please:

(a) identify the CSA by applicable CSA, tariff, or docket number;

(b) identify the terms, conditions, or provisions of the CSA which you contend are discriminatory, if any;

(c) state all facts which support your contention that the CSA or any terms, conditions, or provisions contained therein are discriminatory; and

(d) identify all documents which support your conclusion that the CSA or any terms, conditions, or provisions contained therein are discriminatory.

**RESPONSE:** Not applicable.

Have you entered into any Special Contracts from January 1, 1994 to the present?

**RESPONSE:** Yes.

If the answer to the foregoing request is in the affirmative, please identify each Special Contract, including:

- (a) the effective date of the Special Contract;
- (b) the term of the Special Contract;
- (c) the telecommunications services provided under the Special Contract; and
- (d) the differences in the rates, terms and conditions for the telecommunications services provided under the Special Contract and the rates, terms, and conditions for those same services as set forth in your approved tariffs in Tennessee.

**RESPONSE:** Virtually all of NEXTLINK's customers are served at tariffed rates, and rates for monthly, one, two, and three year term commitments are set forth in NEXTLINK'S tariffs. As stated in the tariff, those rates vary depending upon the term of the customer's contract with NEXTLINK. Each customer signs a Service Order Agreement ("SOA") stating the term of the customer's contract. The SOA also includes standard termination charges. A copy of a blank SOA has been provided to BellSouth along with the applicable tariff pages.

NEXTLINK has also entered into a few CSAs with customers. Counsel for NEXTLINK has located two such CSAs and provided them to BellSouth. If other CSAs are located, these will also be provided.

NEXTLINK's tariffs are available for public inspection at the Tennessee Regulatory Authority.

Do any of the Special Contracts you have entered into since January 1, 1994 contain any provisions which require that the person subject to the Special Contract pay termination charges in the event the person cancels service orders prior to installation or terminates the Special Contract before the term of the agreement has expired?

**RESPONSE:** Yes.

If the answer to the foregoing request is affirmative, please:

- (a) identify each such Special Contract; and
- (b) describe any termination charges that would apply under each such Special Contract if the person subject to the Special Contract cancels a service order prior to installation or terminates the Special Contract before the term of the Agreement has expired.

**RESPONSE:** NEXTLINK has provided copies of termination provisions to BellSouth. As other CSAs are located, these will also be provided.

Has any person subject to a Special Contract entered into with you since January 1, 1994 been assessed or paid termination charges for canceling a service order prior to installation or terminating the Special Contract before the term of the agreement as expired:

**RESPONSE:** No.

If the answer to the foregoing request is in the affirmative, please:

(a) identify the person involved and the Special Contract under which the termination charges were assessed or paid;

(b) state the amount of termination charges that were assessed or paid; and

(c) describe with specificity the method by which the termination charges were calculated.

**RESPONSE:** Not applicable.

Are the services that you provide under each Special Contract available at the same rate to any person who meets the terms and conditions of the Special Contract?

**RESPONSE:** Yes.

If the answer to the foregoing request is in the affirmative, please:

(a) describe the criteria you consider, if any, in determining whether a person meets the terms and conditions of the Special Contract;

NEXTLINK's CSAs, like its tariff rates, are available to any similarly situation customer.

(b) identify all documents that refer or relate to the criteria you consider, if any, in determining whether a person meets the terms and conditions of the Special Contract;

**RESPONSE:** The service, term, terms and conditions are set forth in the documents that have produced.

(c) describe the procedures you utilize, if any, in determining whether a person meets the terms and conditions of the Special Contract; and

**RESPONSE:** The terms and conditions speak for themselves; when a sales person is in doubt, they typically consult their sales manager, general manager, and/or the regulatory department.

(d) identify all documents that refer or relate to the procedures you utilize, if any, in determining whether a person meets the terms and conditions of the Special Contract.

**RESPONSE:** As stated above, the documents have been produced, and the terms and conditions are self-explanatory.

Produce copies of all documents identified in response to these data requests.

**RESPONSE:** Not applicable.

Respectfully submitted,



Henry Walker  
Boult, Cummings, Conners & Berry, PLC\  
414 Union Street, Suite 1600  
Nashville, Tennessee 37219  
(615) 252-2363

## **CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing has been hand delivered or mailed to the following persons on this the 22nd day of June, 1999:

Guy M. Hicks  
BellSouth Telecommunications, Inc.  
333 Commerce Street, Suite 2101  
Nashville, TN 37201-3300

Richard Collier, Esq.  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0500


Charles B. Welch, Esq.  
Farris, Mathews, et al.  
511 Union St., #1600  
Nashville, TN 37219

Vance Broemel, Esq.  
Consumer Advocate Division  
426 5th Avenue, N., 2nd Floor  
Nashville, TN 37243

Carolyn Tatum Roddy, Esq.  
Sprint Communications Company, L.P.  
3100 Cumberland Circle, N0802  
Atlanta, GA 30339

James P. Lamoureux  
AT&T  
Room 8068, 1200 Peachtree Street, N.E.  
Atlanta, GA 30309

Jon Hastings  
Boult Cummings, et al.  
414 Union Street, Suite 1600  
Nashville, TN 37219

  
Henry Walker



**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

**IN RE: PROCEEDING FOR THE PURPOSE OF ADDRESSING COMPETITIVE  
EFFECTS OF CONTRACT SERVICE ARRANGEMENTS FILED BY  
BELLSOUTH TELECOMMUNICATIONS, INC. IN TENNESSEE**

**DOCKET NO. 98-00559**

**RESPONSE OF NEXTLINK TENNESSEE, INC. TO SECOND DATA REQUESTS OF  
BELLSOUTH TELECOMMUNICATIONS, INC.**

1. If you are providing telephone exchange service to customers in the State of Tennessee, please:

(a) state the date you began providing such service in Tennessee;

**RESPONSE:** July 4, 1996.

(b) identify all counties in Tennessee where you currently provide or offer to provide such service; and

**RESPONSE:** Davidson, Shelby and Williamson

(c) identify all counties in Tennessee where you are not currently providing or offering to provide telephone exchange service, but plan to provide or offer to provide such service within the next twelve (12) months.

**RESPONSE:** NEXTLINK has not finalized or announced its expansion plans

2. Have you ever decided not to offer to provide telecommunications service to a person in Tennessee because the person was subject to a CSA with BellSouth?

**RESPONSE:** NEXTLINK has never decided not to offer or make available its service to a customer because the customer had service, long term or otherwise, with another carrier.

3. If the answer to the foregoing request is in the affirmative, for each such person please:

- (a) identify the person involved;
- (b) identify the telecommunications services you would have offered to provide the person had the person not been subject to a CSA with BellSouth; and
- (c) identify all documents that refer or relate to your decision not to offer to provide telecommunications service to a person in Tennessee because the person was subject to a CSA with BellSouth.

**RESPONSE:** Not applicable.

4. Have you ever offered to provide telecommunications service to a person in Tennessee who declined your offer, in whole or in part, because the person had previously entered into a CSA with BellSouth?

**RESPONSE:** While it is impossible to know, in most instances, all the reasons a prospect declines an offer, NEXTLINK has encountered BellSouth contracted customers who have stayed with BellSouth.

5. If the answer to the foregoing request is in the affirmative, for each such person, please:

- (a) identify the person involved;
- (b) identify the telecommunications services you offered to provide; and
- (c) identify all documents that refer to your offer to provide telecommunications service to a person in Tennessee which was declined, in whole or in part, because the person had previously entered into a CSA with BellSouth.

**RESPONSE:** NEXTLINK does not systematically track each CSA encountered in the field. NEXTLINK salespersons have indicated loss of sales because of CSAs, and have, on a number of occasions, indicated to the regulatory department of NEXTLINK problems with customers bound by contracts. NEXTLINK and its counsel will use their best efforts to identify specific instances in which a BellSouth CSA was encountered in the field, and will supplement this response accordingly.

6. Do you contend that BellSouth's CSAs are not available for resale in Tennessee?

**RESPONSE:** NEXTLINK has not attempted to resell any BellSouth CSA. As a practical matter, however, because BellSouth's CSAs are filed as proprietary and identifying information (customer name, location, etc.) is not available to competitor's marketing or sales personnel, proactive resale of BellSouth CSAs by any competitor would be unlikely.

7. If the answer to the foregoing request is in the affirmative, please:

(a) state all facts which support your contention that BellSouth's CSAs are not available for resale in Tennessee, including describing with particularity any efforts you have made to resell a BellSouth CSA in this State; and

(b) identify all documents which support your contention that BellSouth's CSAs are not available for resale in Tennessee, including any documents that refer or relate to your efforts to resell a BellSouth CSA in this State.

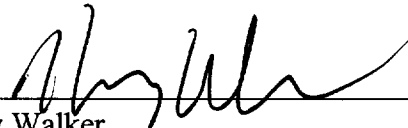
**RESPONSE:** Not applicable.

8. Produce copies of all documents in response to BellSouth's Second Data Request.

**RESPONSE:** Not applicable.

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:   
Henry Walker  
414 Union Street, Suite 1600  
P.O. Box 198062  
Nashville, Tennessee 37219  
(615) 252-2363  
Counsel for NEXTLINK Tennessee, Inc.

## **CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing has been hand delivered or mailed to the following persons on this the 22 day of June, 1999.

Guy Hicks, Esq.  
BellSouth Telecommunications, Inc.  
333 Commerce Street  
Suite 2101  
Nashville, TN 37201-3300

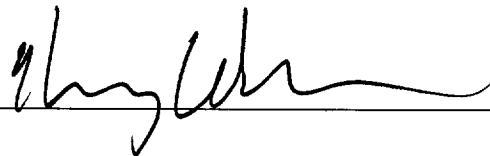
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A handwritten signature in dark ink, appearing to read "Guy Hicks", is written over a horizontal line.